

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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RVC FLOOR DECOR, LTD.,

Plaintiff,

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

- against -

2:19-cv-4894 (DRH) (ARL)

FLOOR AND DECOR OUTLETS OF
AMERICA, INC.,

Defendant.

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HURLEY, Senior District Judge:

Presently before the Court is the Report and Recommendation of Magistrate Judge Arlene R. Lindsay, dated August 18, 2021 (the “R&R” [DE 30]), recommending the Court deny Defendant Floor and Decor Outlets of America, Inc.’s (“Defendant”) motion for attorneys’ fees. Judge Lindsay concluded that Defendant failed to demonstrate its entitlement to attorneys’ fees pursuant to Section 35(a) of the Lanham Act, 28 U.S.C. § 1927, or the Court’s inherent authority. In particular, Judge Lindsay concluded that Plaintiff’s actions (i) did not support finding this action an “exceptional case” under the Lanham Act, (ii) were not “objectively unreasonable,” “improperly motivated,” nor made in bad faith, and (iii) failed to suggest an award of attorneys’ fees would deter future conduct of the same type. R&R at 9–15.

More than fourteen (14) days have passed since service of the R&R and no objections have been filed. Pursuant to 28 U.S.C. § 636(b) and Federal Rule Civil Procedure 72, this Court has reviewed the R&R for clear error. Having found none, the Court concurs in the R&R’s reasoning and result. Accordingly,

IT IS HEREBY ORDERED THAT Defendant's motion for attorneys' fees is DENIED.

SO ORDERED.

Dated: Central Islip, New York
September 10, 2021

s/ Denis R. Hurley
Denis R. Hurley
United States District Judge